ISSUE DATE: June 13, 2000

DOCKET NO. G-004/PA-00-184

ORDER ACCEPTING STIPULATION AND AGREEMENT AND APPROVING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner

In the Matter of a Request by Great Plains Natural Gas Company for Approval to Merge Great Plains Energy Corp. and its Subsidiary, Great Plains Natural Gas Company, with MDU Resources Group, Inc.

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ORDER ACCEPTING STIPULATION AND AGREEMENT AND APPROVING MERGER SUBJECT TO CONDITIONS

PROCEDURAL HISTORY

On February 11, 2000 MDU Resources Group, Inc. (MDU Resources) and Great Plains Energy Corp. and its sole and wholly owned subsidiary, Great Plains Natural Gas Company, (together, Great Plains), filed a joint petition under Minn. Stat. § 216B.50 for approval of a proposed merger between MDU Resources and Great Plains.

On April 4, 2000 petitioners filed a Stipulation and Agreement, dated April 3, 2000, addressing certain cost recovery issues raised by the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) and the Minnesota Department of Commerce (the Department).

On April 21, 2000 the RUD-OAG filed comments recommending approving the merger subject to the conditions in the Stipulation and Agreement.

On April 26, 2000 the Department filed comments recommending approving the merger subject to the conditions in the Stipulation and Agreement and other conditions set forth in those comments.

On May 12, 2000 petitioners filed reply comments agreeing to all the Department’s conditions.

On June 8, 2000 the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Merger

A. The Companies

Great Plains is an investor-owned natural gas utility incorporated in the State of Minnesota and providing service in Minnesota and North Dakota. In Minnesota, it serves some 20,000 customers in 18 communities. In North Dakota, it serves 2,000 customers in one community. The company is owned by a single shareholder, who wishes to retire from active management of the utility.

MDU Resources is a diversified natural resource company incorporated in the State of Delaware. It has a public utility division, Montana-Dakota Utilities Company, which provides gas and electric service in North Dakota, South Dakota, Wyoming, and Montana. The company has approximately 204,000 natural gas customers and 114,000 electric customers.

MDU Resources also has a wholly-owned subsidiary, Centennial Energy Holdings, Inc., which owns the following enterprises: (1) WBI Holdings, Inc., a pipeline, energy services, and oil and natural gas production company; (2) Knife River Corporation, which operates lignite coal mines and mines and markets aggregates, related construction materials, and related services; (3) Utility Services, Inc., which constructs and maintains natural gas, electric, communications, and fiber optic transmission systems.

A. The Process

The merger agreement provides for Great Plains to be merged into MDU Resources, which will retain its current name. Great Plains will become a separate operating division of MDU and will continue to serve customers under the Great Plains name.

Petitioners plan to use the purchase method of accounting to record the merger; the merger will be treated as a purchase of Great Plains on MDU's books. Great Plains' assets will be stated at fair market value for financial reporting purposes and carried forward at book value for regulatory purposes.

The merger will also require the approval of the North Dakota Commission.

A. The Purpose and Intended Effects

Petitioners explained that the merger is proposed for strategic reasons, not to cut costs, and that no cost savings are expected.

MDU states that it views Great Plains as a solid addition to its core utility business. It expects the company to continue to experience steady growth. It considers the company's operating standards, business practices, and management philosophy compatible with its own.

Great Plains states that it believes MDU's larger size and greater financial strength will benefit its customers, its service area, and its employees. As an operating division of MDU, the company expects freer access to capital markets, a wider range of services for its customers, and expanded career opportunities for its employees.

II. The Legal Standard

Under Minnesota law, the Commission is to approve the merger upon a showing that it is "consistent with the public interest." The statutory text reads as follows:

> No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of $100,000, or merge or consolidate with another public utility operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission thereto the commission shall investigate, with or without public hearing, and in case of a public hearing, upon such notice as the commission may require, and if it shall find that the proposed action is consistent with the public interest it shall give its consent and approval by order in writing. . . .
>
> Minn. Stat. § 216B.50.

The statute does not require that proposed mergers affirmatively benefit ratepayers or the public or that they otherwise promote the public interest. They cannot contravene the public interest, however, and must be shown to be compatible with it. In making this determination, the Commission has traditionally weighed the potential public benefits of proposed mergers against their potential public harms.

III. The Stipulation and Agreement

The Stipulation and Agreement filed by the Company on April 4 addressed threshold cost recovery issues, as set forth below:

(1) Petitioners agreed not to seek recovery of merger-related costs (transaction and transition) from Minnesota ratepayers in any future rate case;

(2) Petitioners agreed not to seek recovery of the acquisition adjustment from Minnesota ratepayers in any future rate case;

(3) Petitioners agreed that the amount of corporate cost allocations from MDU

Resources Group, Inc. that Great Plains would seek to recover in its next Minnesota rate case would not exceed its comparable corporate costs for the twelve months ending December 31, 1999, adjusted for inflation.

IV. Comments of the Parties

A. RUD-OAG

Petitioners' Stipulation and Agreement adequately addressed RUD-OAG's concerns, and that agency recommended approving the merger as consistent with the public interest.

A. Department of Commerce

The Department analyzed the merger by examining its potential effects on Great Plains' costs and rates, Great Plains' day to day operations and service quality, the Minnesota regulatory process, and the combined market power of the merging companies. The Department saw no grounds for serious concern.

On cost and rate issues, the Department considered the Stipulation and Agreement, coupled with supplementary assurances agreed to by petitioners, adequate protection for Minnesota ratepayers. It did not believe the merger posed any financial risk to either of the two petitioners. In fact, the Department believed that if the merger had any effect on Great Plains' cost of capital, a critical component of the cost of service, it would reduce that cost.

The Department did not believe that the merger would jeopardize service quality. Although the companies are merging, they are not integrating their utility operations. (They have different pipeline suppliers, and their facilities are 100 miles apart at their closest point.) Great Plains will continue to serve the same customers with the same employees. Its headquarters will continue to be in Fergus Falls. This is not a situation in which customers must rely on new personnel or new management systems to deliver critical services.

For similar reasons, the Department found that the merger would not compromise this Commission's ability to regulate the company or its ability to protect Minnesota ratepayers. Great Plains will provide service as a free-standing MDU operating division headquartered in Fergus Falls. Its books will continue to reflect only its own financial transactions and condition.
Finally, the Department did not believe the merger would have anti-competitive effects on the regional natural gas market. It considered Great Plains' market share too small to pose a threat, even when combined with MDU's. The market power potential of the merging companies would also be diluted by their serving non-contiguous areas and receiving wholesale gas from different suppliers.

The Department therefore recommended approving the merger, subject to the following conditions:

(1) The company must hold Minnesota ratepayers harmless from any increase in Great Plains' cost of service resulting from the merger;

(2) The company must demonstrate in its next rate increase request that no part of the rate increase is a result of the merger;

(3) The company must file an annual customer complaint report for six years following the merger stating the number of customer complaints received, the number of customers, and the reasons for any significant increase in customer complaints;

(4) The company must file prior notice of any local office closings or other significant operational changes in Minnesota;

(5) Within 90 days of closing the company must file the actual accounting entries used to record the merger, including the description, amount, FERC account name and number for each item, including the actual account entries for merger-related costs.

The Department noted that approving the merger would not constitute approving MDU 's corporate cost allocation practices and suggested reminding MDU that Minnesota cost allocation standards have been set by Order in an earlier industry-wide proceeding.[1]

C. Petitioners

Petitioners agreed to all conditions proposed by the Department and urged the Commission to approve the merger as consistent with the public interest.

V. Commission Action

The Commission agrees with the parties that the proposed merger meets the statutory standard of "consistent with the public interest." Minn. Stat. § 216B.50. There is nothing in the record to suggest any reasonable likelihood that the merger will harm Minnesota ratepayers or the Minnesota public, and there is evidence suggesting it may produce at least modest benefits. Any potential risks to ratepayers are adequately addressed by the conditions recommended by the parties and agreed to by petitioners.

For these reasons, the Commission will approve the merger, subject to the conditions contained in petitioners' Stipulation and Agreement and subject to the conditions recommended by the Department in its April 26, 2000 comments.

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[1] In the Matter of an Investigation into the Competitive Impact of Appliance Sales and Service Practices of Minnesota Gas and Electric Utilities, Docket No. G,E-999/CI-90-1008.

The Commission notes, as the Department pointed out, that merger approval does not carry with it approval of MDU's corporate cost allocations. For rate recovery purposes, those allocations are subject to the principles developed in the earlier industry-wide cost-allocation proceeding referenced by the Department.

ORDER

1. The Commission accepts the Stipulation and Agreement filed by petitioners on April 4, 2000.
2. The Commission grants the petition for approval of the proposed merger subject to the conditions set forth in the Stipulation and Agreement and subject to the conditions set forth in the Department's April 26, 2000 comments. Those conditions are summarized in the paragraphs below.

3. Petitioners shall hold Minnesota ratepayers harmless as to any increase in Great Plains' cost of service resulting from the merger.

4. Petitioners shall not seek recovery of merger-related costs (transaction and transition) from Minnesota ratepayers in any future rate case.

5. Petitioners shall not seek recovery of the acquisition adjustment, including goodwill, resulting from this merger from Minnesota ratepayers in any future rate case.

6. In Great Plains' next Minnesota rate case, petitioners shall not seek recovery of corporate cost allocations exceeding Great Plains' comparable corporate costs for the twelve month period ending December 31, 1999. Comparable costs are those relating to corporate services of the type and scope that Great Plains currently has, adjusted for inflation.

7. Great Plains shall maintain a detailed record of the description and amount of each of its 1999 corporate costs until the end of its next Minnesota rate case.

8. Within 90 days of the date the merger is closed, petitioners shall file the actual accounting entries used to record the merger, including the description, amount, FERC account name and number for each item, including the actual account entries for merger-related costs.

9. In its next rate increase request, the company shall demonstrate that no part of the requested increase is a result of the merger.

10. On each May 1 of the six years immediately following the merger, the company shall file an annual customer complaint report stating the number of customer complaints received, the number of customers, and the reasons for any significant increase in customer complaints.

11. The company shall file prior notice of any local office closings or other significant operational changes in Minnesota;

12. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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